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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,513	02/25/2002	Timothy S. McAbee	1739A1	3006

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KILPATRICK STOCKTON LLP  
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EXAMINER

CHOI, STEPHEN

ART UNIT PAPER NUMBER

3724

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/082,513

Applicant(s)

MCABEE ET AL.

Examiner

Stephen Choi

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 16-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 & 8. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, species B in Paper No. 7 is acknowledged. The traversal is on the ground(s) that it would not be unduly burdensome to conduct a search on all of the pending claims since each group is related to Class 83. This is not found persuasive because the issue at hand is whether the inventions represented by the groups of claims are distinct and whether there is burden on the examiner if the restriction was not required. As set forth in the previous office action, the inventions are deemed distinct and there would be burden on the examiner. Applicant's traversal on the election of species is persuasive. Therefore, the restriction requirement on the species made in Paper No. 6 is hereby withdrawn.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

2. The disclosure is objected to because of the following informalities: page 9, line 29, "62" should be --60--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-7, 12-13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cote (US 6,360,640) in view of Green (US 4,512,225).

Cote discloses the invention substantially as claimed except for a sensor system. Green teaches a sensor system (36). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the sensor system as taught by Green on the device of Cote in order to provide real time control of rolls to obtain accurate cutting. Regarding claim 2, the sensor system of Green senses rotational position. Regarding claims 3-7 and 13, see col. 3-4 of Green.

5. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cote (US 6,360,640) in view of Green (US 4,512,225) as applied to claim 1 above, and further in view of Applicant Admitted Prior Art (hereafter AAPA).

The modified device of Cote discloses the invention substantially as claimed except for a plurality of slots. AAPA discloses slots are old and well known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ slots as taught by AAPA on the modified device of Cote as an alternative counter structure.

6. Claims 10-11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cote (US 6,360,640) in view of Green (US 4,512,225) as applied to claim 1 above, and further in view of Okahashi (US 5,720,210).

The modified device of Cote discloses the invention substantially as claimed except for the sensor system further operable to measure a radial spacing and the drive system further operable to adjust the radial spacing. Okahashi discloses a sensor

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system having a sensor (29, 30) for sensing a radial spacing and a drive system for adjusting the radial spacing (34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a radial spacing controlling mechanism as taught by Okahashi on the modified device of Cote in order to maintain correct radial spacing to reduce deterioration and wear of severing structures.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rudszinat, Van Doorn et al., Simon, Arterburn et al., and Ichikawa et al. are cited to show related devices.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Choi whose telephone number is 703-306-4523. The examiner can normally be reached on Monday thru Friday between 9am and 5pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302 (703-872-9303 for after final). Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

SC  
September 6, 2003

  
Stephen Choi  
Patent Examiner